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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Draft resolution submitted by the Chairman of the Third Committee on the basis of informal consultations

Question of human rights in Afghanistan

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and accepted humanitarian rules, as set out in the Geneva Conventions of 12 August 1949[3] and the Additional Protocols thereto, of 1977,[4]

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling that Afghanistan is a party to the Convention on the Prevention and Punishment of the Crime of Genocide,[5] the International Covenant on Civil and Political Rights,[2] the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[6] the Convention on the Rights of the Child,[7] the Geneva Convention relative to the Protection of Civilian Persons in Time of War[8] and International Labour Organization Conventions 100 on equal remuneration and 105

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.
[4] Ibid., vol. 1125, Nos. 17512 and 17513.
[5] Resolution 260 A (III).
[6] Resolution 39/46, annex.
[7] Resolution 44/25, annex.
[8] United Nations, *Treaty Series*, vol. 75, No. 973.

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on the abolition of forced labour and that it has signed the Convention on the Elimination of All Forms of Discrimination against Women,[9]

Recalling also all its relevant resolutions, as well as the resolutions and presidential statements of the Security Council, the decisions of the Economic and Social Council, the resolutions and decisions of the Commission on Human Rights and the resolutions of the Commission on the Status of Women,

Recalling Security Council resolutions 1333 (2000) of 19 December 2000 and 1378 (2001) of 14 November 2001 on the situation in Afghanistan,

Recalling also Security Council resolutions 1296 (2000) of 19 April 2000 on the protection of civilians, 1379 (2001) of 20 November 2001 on children and armed conflict and 1325 (2000) of 31 October 2000 and the statement by the President of the Security Council of 31 October 2001[10] on women, peace and security,

Expressing grave concern about the appalling proportions of the humanitarian crisis affecting the country,

Warmly welcoming the appointment by the Secretary-General of a Special Representative for Afghanistan and endorsing the approach outlined by the Special Representative of the Secretary-General at the meeting of the Security Council on 13 November 2001,[11]

Affirming the essential role of the United Nations in supporting the efforts of the Afghan people to establish a new transitional administration leading to the formation of a Government, both of which:

(a) Should be broad-based, multi-ethnic and fully representative of all the Afghan people and committed to peace with the neighbours of Afghanistan;

(b) Should respect the human rights of all Afghan people, regardless of gender, ethnicity or religion;

(c) Should respect Afghanistan's international obligations, including by cooperating fully in international efforts to combat terrorism and illicit drug trafficking within and from Afghanistan;

(d) Should facilitate the urgent delivery of humanitarian assistance and the orderly return of refugees and internally displaced persons, when the situation permits;

Recognizing that the accountability of perpetrators, including their accomplices, of grave human rights violations is one of the central elements of any effective remedy for victims of human rights violations and a key factor in ensuring a fair and equitable justice system and, ultimately, reconciliation and stability within a State,

Stressing the importance of ensuring the full and effective participation of women in all decision-making processes regarding the future of Afghanistan,

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[9] Resolution 34/180, annex.
[10] S/PRST/2001/31.
[11] See S/PV.4414.

1. *Welcomes* the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan[12] and the report of the Special Rapporteur on violence against women, its causes and consequences[13] on her mission to Afghanistan and the conclusions and recommendations contained therein;

2. *Strongly condemns*:

(a) The cases of summary execution committed by the Taliban at Yakawlang in January, May and June 2001;

(b) The widespread violations and abuses of human rights and international humanitarian law in Afghanistan, mainly by the Taliban, including the right to life, liberty and security of person, freedom from torture and from other forms of cruel, inhuman or degrading treatment or punishment, freedom of opinion, expression, religion, association and movement, and the recruitment and use of children in hostilities contrary to international standards;

(c) The civilian massacres involving reprisal killings and summary executions following, in recent years, the taking and retaking of particular areas by warring parties;

(d) The frequent Taliban practice of arbitrary arrest and detention and of summary trials, which have resulted in summary executions throughout the country;

(e) The gross violations of the human rights of women and girls, including all forms of discrimination against them, notably in areas under the control of the Taliban where findings of further gross violations of the human rights of women and girls include abductions and kidnappings, as well as accounts of many instances of forced marriage and of trafficking;

3. *Strongly condemns* the killings of foreign correspondents which occurred in Afghanistan in November 2001, reiterates its firm condemnation of the killings of Iranian diplomats and the correspondents of the Islamic Republic News Agency by the Taliban, as well as the attacks on and the killings of United Nations personnel in territories of Afghanistan at that moment under Taliban control, and calls upon all Afghan parties to cooperate in urgent investigations of those heinous crimes with a view to bringing to justice those responsible;

4. *Condemns* the Taliban authorities for allowing the continued use of Afghan territory for terrorist activities;

5. *Notes with deep concern* the existence of millions of Afghan refugees and their increased flow, while recognizing the huge burden shouldered by neighbouring countries, especially the Islamic Republic of Iran and Pakistan, and appreciating the efforts undertaken in these host countries to ease the plight of Afghan refugees;

6. *Underlines* the importance of the fulfilment of obligations under international law, including human rights law, with regard to asylum-seekers;

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[12] A/54/409 and Add.1.

[13] E/CN.4/2000/68/Add.4.

7. *Expresses its concern* at the large number of internally displaced persons in Afghanistan and their situation, and encourages efforts to meet their protection and assistance needs in Afghanistan;

8. *Supports* the early development of a comprehensive strategy aimed at ensuring respect for human rights and humanitarian law, which would, inter alia, provide for a smooth transition from humanitarian assistance to rehabilitation and long term sustainable development as well as for a durable solution for refugees and internally displaced persons, including their voluntary return in safety and with dignity, and calls upon the international community to provide additional assistance in this regard;

9. *Urges* all parties to work and cooperate fully with the Special Representative of the Secretary-General for Afghanistan and the United Nations Special Mission to Afghanistan;

10. *Stresses* the need for national reconciliation and for the establishment of the rule of law, good governance and democracy in Afghanistan and, concurrently, the need for extensive rehabilitation and reconstruction;

11. *Strongly condemns* all acts of violence and intimidation against humanitarian personnel, and urges all Afghan parties to ensure the safety, security and free movement of all United Nations and associated personnel, as well as of the personnel of humanitarian organizations, their safe and unimpeded access to all affected populations and to guarantee the access of all Afghans to aid deliveries, education and health facilities without discrimination on any ground, including of gender, ethnicity or religion;

12. *Calls upon* all Afghan parties:

(a) To respect fully all human rights and fundamental freedoms without discrimination of any ground, including of gender, ethnicity or religion, in accordance with international law;

(b) To refrain from summary and arbitrary executions and from acts of reprisal and to adhere strictly to their obligations under human rights instruments and international humanitarian law;

(c) To reaffirm publicly their commitment to respect fully humanitarian law and international human rights standards and to take all measures to protect the civilian population;

(d) To refrain from the recruitment or use of children in hostilities contrary to international standards and to take all necessary measures for the demobilization and social reintegration of war-affected children;

(e) To facilitate the provision of efficient and effective remedies to the victims of grave violations and abuses of human rights and of international humanitarian law and to bring the perpetrators to justice in accordance with international standards;

(f) To fulfil their obligations and commitments regarding the safety and security of all personnel and premises of diplomatic missions, the United Nations and other international organizations and non-governmental organizations, as well as all humanitarian supplies in Afghanistan, and to cooperate, fully and without discrimination on any ground, including of gender, nationality or religion, with the

United Nations and associated bodies, as well as with other humanitarian organizations, agencies and non-governmental organizations;

(g) To treat all suspects and convicted or detained persons in accordance with relevant international law and to refrain from arbitrary detention in violation of international law;

13. *Calls upon* all Afghan parties to respect fully the equal human rights and fundamental freedoms of women and girls in accordance with international human rights law and, in particular, consistent with the Convention on the Elimination of All Forms of Discrimination against Women, to bring to an end without delay all violations of the human rights of women and girls and to take urgent measures to ensure:

(a) The repeal of any legislative and other measures in place that discriminate against women and girls and those that impede the realization of all their human rights;

(b) The full, equal and effective participation of women in civil, cultural, economic, political and social life throughout the country at all levels;

(c) Respect for the right of women to work and their reintegration into employment, including in the United Nations system and human rights organizations;

(d) The equal right of women and girls to education without discrimination, the reopening of schools and the admission of women and girls to all levels of education;

(e) Respect for the equal right of women and girls to security of person, and that those responsible for physical attacks on women be brought to justice;

(f) Respect for the freedom of movement of women and girls;

(g) Respect for the effective and equal access of women and girls to the facilities necessary to protect their right to the highest attainable standard of physical and mental health;

14. *Notes with appreciation* the activities carried out by the United Nations system, international and non-governmental organizations and the International Committee of the Red Cross throughout the territory of Afghanistan;

15. *Recalls* its invitation extended to the Secretary-General and the United Nations High Commissioner for Human Rights to proceed without delay to investigate fully reports of summary executions and of rape and cruel treatment in Afghanistan, expresses deep regret for the lack of cooperation by Afghan parties which prevented effective investigations, and calls upon all parties to fulfil their stated commitment to cooperate with United Nations investigations;

16. *Invites* the relevant bodies of the United Nations to offer, as appropriate, advisory services and technical assistance in the area of human rights;

17. *Appeals* to Member States, organizations and programmes of the United Nations system, specialized agencies and other international organizations:

(a) To ensure that all United Nations operations integrate a gender perspective, including the selection of personnel for their management, and that women will benefit equally with men from such programmes;

(b) To implement the recommendations of the inter-agency gender mission in Afghanistan under the leadership of the Special Adviser to the Secretary-General on Gender Issues and Advancement of Women and to provide specific programmes for all Afghan women and girls to address their special needs and promote their human rights;

(c) To support structures of civil society active in the field of human rights, in particular women's rights;

18. *Calls upon* the Afghan parties to cooperate fully with the Special Rapporteur on the situation of human rights in Afghanistan and all other special rapporteurs who request invitations to visit Afghanistan, and to facilitate their access to all sectors of society and to all parts of the country;

19. *Requests*:

(a) The Secretary-General to give all necessary assistance to the Special Rapporteur;

(b) The Secretary-General, in consultation with the United Nations High Commissioner for Human Rights, to ensure the integration of a human rights capacity in the context of United Nations activities in Afghanistan;

20. *Invites* the Special Rapporteur to provide updates, as appropriate, of his reports on the situation of human rights in Afghanistan to the General Assembly and the Commission on Human Rights;

21. *Decides* to keep the situation of human rights in Afghanistan under consideration at its fifty-seventh session, in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.